

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.1073 of 2019

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of Code of Criminal Procedure, 1973, is filed by the petitioner/accused aggrieved by the docket order, dated 25.06.2019, passed in CrI.A.No.147 of 2016 on the file of Special Sessions Judge for Trial of SCs/STs (POA) Cases – cum- Additional District Judge, Nalgonda.

2. Heard the learned counsel for the petitioner, learned counsel for the 1st respondent, learned Additional Public Prosecutor representing the 2nd respondent-State and perused the record.

3. By Judgment, dated 01.09.2016, in C.C.No.87 of 2013 the learned Judicial Magistrate of First Class, Special Mobile Court, Nalgonda, found the petitioner/accused guilty of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and accordingly, he was convicted and sentenced to undergo simple imprisonment for a period of six (6) months and to pay compensation of Rs.2,00,000/- to the 1st respondent-*de facto* complainant, within a period of two (2) months from the date of that judgment. In default of payment of compensation amount, the 1st respondent can recover the amount from the petitioner as per Section 421 Cr.P.C. Aggrieved by the said judgment, the petitioner preferred an appeal in CrI.A.No.147 of 2016 on the file of Special Sessions Judge for Trial of SCs/STs (POA) Cases-cum- Additional District Judge, Nalgonda, and the same is pending.

4. The docket, dated 25.06.2019, passed in CrI.A.No.147 of 2016 is reads as follows:

“Appellant not ready for arguments. NBW pending against the appellant. No representation for the appellant. Appeal is dismissed.”

5. Learned counsel for the petitioner would submit that the impugned order passed by the Court below is illegal, improper and incorrect; that the trial Court erred in convicting the petitioner for the offence punishable under Section 138 of the Act; that the first appellant Court ought to have given an opportunity to the petitioner as he is suffering from old age ailments and hence, he prays to set aside the impugned docket order.

6. Learned counsel appearing for the 1st respondent fairly conceded to the fact that the appeal was not heard and decided on merits. He further submitted that a direction may be given to the first appellate Court to dispose of the appeal in CrI.A.No.147 of 2016 in accordance with law, expeditiously.

7. In the light of submissions made by both parties, the docket order, dated 25.06.2019, passed in CrI.A.No.147 of 2016 is liable to be set aside.

8. Accordingly, the Criminal Revision Case is allowed setting aside the docket order, dated 25.06.2019, passed in CrI.A.No.147 of 2016 and the learned Special Sessions Judge for Trial of SCs/STs (POA) Cases – cum- Additional District Judge, Nalgonda, is directed to dispose of the appeal on merits, after giving opportunity to both parties, as expeditiously as possible, preferably within a period of two (2) months from today.

9. It is noticed by this Court that Non-bailable Warrant is pending against the petitioner. Since a direction is already given to the first appellate Court to decide the appeal on merits within a period of two (2) months from the date of receipt of a copy of this order, in case the petitioner surrenders before the Court concerned within fifteen (15) days from today, the N.B.W issued against him shall be recalled and the petitioner shall be released on bail on his executing a personal bond for the sum of Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each to the like amount to the satisfaction of Court concerned.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

JUSTICE G.SRI DEVI

5th November, 2019

Note:

Issue C.C in two days.

(B/o)
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Date:05.11.2019

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